IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 11TH DECEMBER 2006 / 20TH AGRAHAYANA 1928

WP(C).No. 9382 of 2005(P)

PETITIONER:

P.K.KUNHAPPU,
KAYIKANDATHIL HOUSE,
KARAKETTEENTAVIDA, NARAYANA NAGARAM,
VATAKARA, KOZHIKODE DISTRICT.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA

RESPONDENTS:
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1. THE VATAKARA MUNICIPALITY, REP.
BY ITS SECRETARY, OFFICE OF THE VATAKARA
MUNICIPALITY, VATAKARA.

2. THE SECRETARY,
VATAKARA MUNICIPALITY, VATAKARA.

3. REGHUNATH, KAYIKANDATHIL HOUSE,
KARAKETTEENTAVIDA, NARAYANA NAGARAM,
VATAKARA, KOZHIKODE DISTRICT.

BY ADV. SRI.P.K.VIJAYAMOHANAN FOR R1
SRI.K.SIVAKUMAR FOR R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 9382/2005

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE DECREE OF THE LEARNED MUNSIFF COURT, VATAKARA DATED 30.11.82 IN O.S.NO.104/80.

EXHIBIT P2: TRUE PHOTOCOPY OF THE DOCUMENT NO.279/1987 OF THE SUB REGISTRAR'S OFFICE, VATAKARA DATED 07.02.87.

EXHIBIT P3: TRUE COPY OF THE OBJECTION DATED 27.12.2003 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P3(a): TRUE PHOTOCOPY OF THE NOTICE NO.B.A.40/03-04 DATED 19.11.2004 SENT BY THE 2ND RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE REPRESENTATION DATED 02.12.2004 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE REPRESENTATION DATED 15.02.2005 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDNET.

EXHIBIT P6: TRUE COPY OF THE NOTICE NO.E3/3225/05 DATED 16.02.2005 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P6(a): TRUE PHOTOCOPY OF THE VAKALATH FILED ON BEHALF OF THE PETITIONER AND THE ENDORSEMENT MADE AT THE BACK SIDE OF THE VAKALATH BY THE 2ND RESPONDENT.

EXHIBIT P7: TRUE COPY OF THE REPRESENTATION DATED 28.02.2005 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBITS OF R3

EXHIBIT R1: TRUE COPY OF THE PLAN.

EXHIBIT R2: TRUE COPY OF THE LAWYER'S NOTICE TO THE 2ND RESPONDENT DATED 29.09.2004.

//TRUE COPY//

P.A. TO JUDGE

PIUS C.KURIAKOSE,J.

W.P.(C) NO. 9382 OF 2005

Dated this the 11th day of December, 2006

J U D G M E N T

The Municipality in its counter affidavit has stated as follows:

> "Having regard to the above it is submitted that this Hon'ble Court may be pleased to see that there is no merits or bonafides in the contentions taken by the petitioner in the Writ petition as his allegations that the Municipality has issued building permit to the 3rd respondent is absolutely false. Since the Municipality has acted on Exhibits P3 and P5 objections of the petitioner and that the Municipality has not issued building permit to the 3rd respondent nothing survives in the Writ petition and the writ petition is liable to be dismissed with cost to the respondent Municipality."

Having regard to the counter filed by the Municipality, the counsel for the petitioner submitted that writ petition itself can be disposed of recording the above paragraph of the counter affidavit.

Accordingly the writ petition will stand disposed of recording the above paragraph of the counter affidavit submitted by respondents 1 and 2. If the 3rd respondent makes an application for issuance of a permit and the Municipality comes to consider

that application, the Municipality will hear the petitioner also before orders are passed on that application.

PIUS C.KURIAKOSE, JUDGE

Rp